Regulation BIa: a standard for free circulation of judgments and mutual trust in the European Union (JUDGTRUST)

QUESTIONNAIRE
for National Reports

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Romania

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CHAPTER I

Application of the Regulation – in general

1. Are judgments applying the Brussels Ia Regulation and its predecessor(s) rendered in all instances (first, appellate and in cassation) published? Are they available online?

   Judgements applying Brussels Ia and Brussels I Regulations are rendered at all instances in Romania. A part of the decisions applying these regulations are published and available in free access in their entirety. However, these do not represent all the cases in which the Regulations have been applied. These are only a selection of the cases that are considered to be of particular interest for the interpretation of specific rules or the novelty they bring to practice.

2. Has the CJEU case law generally provided sufficient guidance/assistance for the judiciary when applying the Brussels Ia Regulation?

   The CJEU case law provides guidance as to the interpretation national judges should give to a particular provision, but it is difficult to say whether that is considered to be sufficient guidance or assistance from the judiciary perspective. Some of the judges are more experienced and encounter cases that require the application of this regulation more often in their daily activity, other encounter it only occasionally. In practice, it is often the lawyers that will make reference or rely on specific CJEU case law they retain relevant for the case they are arguing and for the interpretation of specific provisions of the Brussels Ia. The court will consider such case law and follow the CJEU interpretation if they consider this to be applicable to the situation in case they are handling. There are also decisions where the court appears a bit confused about the way to apply a certain provision of the regulation or whether Brussels I or Ia provisions are to be applied. There are situations also when courts are less knowledgeable of the provisions of the Brussels I/Ia and 'inclined to prefer to apply or rely on national provisions that have the same object as the provisions of the Brussels I/Ia Regulation'.[1] This situation has to do also with the limited time courts have to dedicate to study issues of private international law when receiving files that involve cross-border claims, the limited amount of information and materials that are easily accessible and/or available in free access to consult on the topic.[2]

[1] X.E. Kramer, E.A. Ontanu, M. De Rooij et al., *The Application of Brussels I (Recast) in the Legal Practice of EU Member States*, Synthesis Report, 2018, co-funded by the Justice Programme (2014-2010) of the European Union, JUST/2014/JCOO/AG (available at www.asser.nl/media/5018/m-5797-ec-justice-the-application-of-brussels-1-09-outputs-synthesis-report.pdf).
[2] Ibidem.

Empirical research with judiciary would be a welcomed step in finding out what is the perception of the judges and how supported they perceive their activity to be by the CJEU case law when it comes to the interpretation and application of the Brussels Ia.

3. Which changes introduced in the Brussels Ia Regulation are perceived as improvements and which are viewed as major shortcomings likely to imply difficulties in application – experience in practice and prevailing view in the literature in your jurisdiction?

   Overall the changes brought by the Brussels Ia are perceived as positive. To a certain extent they are considered to be very technical and incorporating the existing case law of the CJEU. The abolition of the exequatur is seen as one of the most important practical change brought by the new text,[3] as well as the rules on *lis pendens* and choice of court agreements. The amendments to what is the present Article 25 Brussels Ia are welcomed as the former rules were perceived as not being sufficiently clear. The present provision reflects the case law developments and clarifications as well as some of the scholarly critique. This development is considered useful also in view of the fact not everyone has access to extensive scholarly work related to Brussels Ia (especially international literature).

   Another positive amendment to the Brussels I is considered to be Article 26(2) Brussels Ia that requires the court to inform the weaker party (i.e. consumer, beneficiary of an insurance contract, employee) that he is entitled to refuse to enter an appearance as well as of the consequences his actions of entering or not entering an appearance and accepting the jurisdiction of the court has.

   The exclusive jurisdiction rules under Article 24(4) has been criticises to some extent as it is not very clear what the provisions mean in practice (e.g. such as the possibility for the owner of a trademark to go abroad to sue an infringer and the infringer would then be able to challenge the validity of the trademark by way of counterclaim and the matter whether the court remains competent). The present text does not solve the issues encountered in practice. Thus, in practice, some see this provision as a bad codification of the CJEU case law.

   With regard to recognition provisions, some practitioners are critical of the fact the regulation does not set an express timeframe within which the courts should recognise the judgments from other Member States. Apparently in practice, some courts take 2-3 months for this process.

[3] See also G.-L. Zidaru, *Competenţa în materie civilă potrivit Regulamentului Bruxelles I bis (nr. 1215/2012)*, Editura Hamangiu, 2017, Ş. Al. Stănescu, *Regulamentul nr. 1215/2012 adnotat cu explicaţii şi jurisprudenţă*, Editura Hamangiu, 2015.

4. Taking into consideration the practice/experience/difficulties in applying the Regulation in your jurisdiction and the view expressed in the literature, what are suggestions for improvement?

For the time being, the most important steps that should be prioritise is knowledge dissemination, familiarisation of national judges with the provisions of the Brussels Ia and easy/free access to information, case law from other Member States, and literature/studies on the application and interpretation of the Regulation.

Another suggestion for improvement from a national perspective is having specific national procedural rules that facilitate the application of the Brussels Ia provisions (and other European private international rules) and expressly addressing the interrelation between the Brussels Ia provisions and national procedural rules.

5. Has there been a tension between concepts under national law and the principle of 'autonomous interpretation' when applying the provisions of the Regulation?

There are situations when courts are less knowledgeable of the provisions of the Brussels I/Ia. In such situations the judges are 'inclined to prefer to apply or rely on national provisions that have the same object as the provisions of the Brussels I/Ia Regulation'.[4]

An additional point with regard to potential tensions has to do with the terminology the Romanian translation of the Regulation uses and the institutions of national procedural law. This can lead at time to some terminological confusions whether the Regulation concept and the national institution are the same or not and how the court should act (e.g. 'declaration of enforceability' and 'încuviințarea executării silite'). The *încuviințarea executării silite* is always requested by the bailiff and is to be granted by the court in order to proceed to the execution of a judicial decisions. The 'declaration of enforceability' in the Brussels Ia has a different meaning.

6. The majority of the rules on jurisdiction in the Regulation refer to a Member State and not to a particular competent court. Has the application of national rules on territorial jurisdiction caused difficulties in the application of the Regulation?

There are no indications that this has caused significant or specific problems in Romania.

[4] See also X.E. Kramer, E.A. Ontanu, M. De Rooij et al., The Application of Brussels I (Recast) in the Legal Practice of EU Member States, Synthesis Report, 2018, co-funded by the Justice Programme (2014-2010) of the European Union, JUST/2014/JCOO/AG (available at www.asser.nl/media/5018/m-5797-ec-justice-the-application-of-brussels-1-09-outputs-synthesis-report.pdf).

7. Has it occurred or may it occur that there is no competent court according to the national rules on jurisdiction in your Member State, thereby resulting in a 'negative conflict of jurisdiction'? If so, how has this issue been addressed?

I have no knowledge of such situation occurring in practice and no specific case law on the matter could be identified.

8. Are the rules on relative and territorial competence regulated in the same legislative act or are instead contained in different statutory laws (e.g., Code of Civil Procedure and statutory law on organisation of judiciary or other statute)?

The rules regarding territorial competence are contained in the same legislative act. This is the New Code of Civil Procedure (Articles 94-128 NCPC) and the amending laws.

Substantive scope

9. Has the delineation between court proceedings and arbitration led to particular problems in your Member State? If yes, please give examples. Please explain whether the clarification in the Recast (Recital 12) has proved helpful and/or has changed the practice in your Member State.

The delineation between court proceedings and arbitration has not led so far to known particular problems.

The clarifications in Recital 12 Brussels Ia have been to some extent helpful, but controversy remains around some aspects (e.g. anti-arbitration and anti-suit injunctions it is not settled with regard to recognition). Literature signals remaining difficulties with situations involving parallel proceedings in front of courts and arbitral tribunals.[5] Additionally, some practitioners consider that although the recital clarifies some aspects, the new text is still not fully clear in establishing to what extent a court decision declaring an arbitration clause null or issuing an anti-arbitration injunction will or can be recognised, and to what extent a court decision in a Member State which is requested to discontinue an arbitration procedure or to continue with the procedure will be recognised or not according to the Brussels Ia in another Member State.

10. Has the delineation between "civil and commercial proceedings" on the one hand and "insolvency proceedings" on the other hand led to particular problems in your Member State? If yes, please give examples. Please, explain whether the latest case law of the CJEU (e.g., C-535/17, *NK v BNP Paribas Fortis NV*) has been helpful or has created extra confusion.

[5] G.-L. Zidaru, *Competența în materie civilă potrivit Regulamentului Bruxelles I bis (nr. 1215/2012)*, Editura Hamangiu, 2017, p. 59-68.

The delineation does not seem to create significant problems to practice in Romania although case law is available and courts receive requests in which such delimitation is necessary (e.g. *Curtea de Apel Bucureşti* (Bucharest Court of Appeal), Decision No 913/23.04.2018, ECLI:RO:CABUC:2018:052.xxxxxx[6]; *Curtea de Apel Cluj* (Cluj Court of Appeal), Decision No 95/2017, ECLI: RO:CACLJ:2017:005.xxxxxx[7]). Some of these claims are related to the certification of a judgment or the recognition and enforcement of such decisions and whether the concerned decision fall within the provisions of Brussels I/Ia or the European Insolvency Regulation.

In the literature case C-535/17, *NK v BNP Paribas Fortis NV* does not seem to have received significant attention yet.

11. Is there case law in your Member State on the recognition and enforcement of court settlements? If yes, please provide information about these.

Some case law on the matter is available. For example, *Tribunalul Timiş* (Timiş General Court), Decision No 1274/A/15.10.2018 (ECLI:RO:TBTIM:2018:014.xxxxxx)[8] on the recognition an registration in the Land Registry of a transaction contained in a judicial decision issued by an Austrian Court (District Court Rattenberg, File No 34/15B-24/29.12.2016) related to the change of ownership of a property situated in Romania and concluded between two former spouses. The particularity of the decision is given by the fact that the settlement seemed to have been certified in accordance with Annex No 2 of Regulation 44/2001 as well as a certification based on Article 3(1) Regulation No 805/2004 (EEO Regulation). The same discussion with regard to the same Austrian Court is subject also to *Tribunalul Timiş* (Timiş General Court), Decision No 231/A/6.03.2018 (ECLI:RO:TBTIM:2018:014.xxxxxx) and Decision No 105/A/13.02.2018 (ECLI:RO:TBTIM:2018:014.xxxxxx).

12. Is there case law in your Member State on the recognition and enforcement of authentic instruments? If yes, please provide information about these.

No case law on this matter could be identified.

[6] In this decision the Court of Appeal had to decide whether a decision ordering the insolvent debtor to return an asset it did not own is to be qualified as deriving from an insolvency proceeding or is a civil and commercial matter and, therefore, is subject to Regulation Brussels Ia; thus, a declaration of enforceability in accordance with the provisions of the Regulation can be requested by the creditor to proceed to a subsequent enforcement in a different Member State.

[7] Involving an assessment whether the decision for which certification was requested under Brussels Ia felt within the scope of this regulation or the European Insolvency Regulation.

[8] Available at http://rolii.ro/hotarari/5be3a467e49009540a000073.

Definitions

13. Have the courts in your jurisdiction encountered difficulties when applying the definitions provided in Article 2? If yes, how are these problems dealt with? Is there any controversy in the literature concerning (some of) these definitions?

No extensive problems could be identified in available case law or literature. The literature does not seem to refer to particular controversies related to these definitions or in relation to the practice of the Romanian courts. According to available case law the definitions provided in Article 2 Brussels Ia do not appear to create difficulties to the judges in their interpretation. However, there seems to be sometimes some confusion for some courts on the scope of the Brussels Ia and matters that are excluded, such as the recognition of decisions related to matrimonial relationships. For example, in an identified decision of *Tribunalul Gorj* (Gorj General Court) the judge proceeded to motivate the recognition of a divorce decision issued on the mutual agreement of the parties to divorce on the basis of Articles 26, 27, and 29 of Brussels Ia Regulation, although this matter is excluded from the application of the Regulation (Article 1(2)(a) Brussels Ia) and is covered by Brussels IIa Regulation.[9]

14. Whilst largely taking over the definition of a 'judgment' provided in Article 32 of the Regulation Brussels I, the Recast in Article 2 widens its scope so as to expressly include certain decisions on provisional measures within the definition of a 'judgment' in Article 2(a) for the purposes of the recognition and enforcement. What is the prevailing view in the literature or jurisprudence in your jurisdiction on the appropriateness of the definition of 'judgment'?

No specific views have been expressed on the appropriateness of this definition. Available judgments do not generally discuss this aspect.

15. Within the context of including certain decisions on provisional measures in the definition of a 'judgment', how is 'jurisdiction as to the substance of the matter' to be understood/interpreted – jurisdiction actually exercised or jurisdiction that can be established according to the rules of the Regulation?

This is to be interpreted as jurisdiction that can be established according to the rules of the Regulation.

16. Should a decision on provisional measure issued by a court of a Member State, that could base its jurisdiction on the substance of the matter according to the Regulation's rules, be considered as a 'judgment' for the purposes of

[9] However, the decision does not mention that any certificate had been issued by the Spanish Court in accordance with Brussels Ia Regulation. *Tribunalul Gorj* (Gorj General Court), Decision No 139/31.10.2016, ECLI:RO:TBGRJ:2016:048.xxxxxx).

enforcement in your jurisdiction, when no proceedings on the merits of the case have yet been initiated? If the claim on the substance of the matter is subsequently filed with a court in another Member State also having jurisdiction under the Regulation, how would that reflect on the request for enforcement in your Member State of the 'judgment' issuing the provisional measure?

No such situations have been so far the object of published case law. The criteria set by *Van Uden v. Deco Line* (C-391/95) will be assessed by the court on a case by case basis. In principle, the court of enforcement will not proceed to reviewing the jurisdiction (material or territorial competence) of the court that issued the judgement.

In theory, the court issuing the writ of execution will need to proceed to verify whether the decision is a judgment in accordance with the provisions of Article 2(1)(a) Brussels Ia; thus, whether the court that issued the decision appears to have jurisdiction on the substance in accordance with Brussels Ia provisions. In making such assessment the Romanian court will be bound by the facts on which the court of origin retained to have jurisdiction on the substance of the matter.

In prior decisions issued on the basis of Brussels I Regulation, some Romanian courts appear to have been reluctant to enforce decisions issued by courts of other Member States ordering provisional and protective measures and proceeded to such refusal not on the basis of the provisions of the Regulation and case law of the CJEU, but on the basis of the then applicable private international law provisions (e.g. Article 173(2) Law No. 105/1992).[10] In the New Code of Civil Procedure (NCPC) Article 1103(2) NCPC contains a similar provisions excluding from the execution in Romania provisional and protective measures; thus, it is likely that in practice Romanian courts will continue to rely on this provision of the NCPC to refuse such enforcement regardless of the Brussels Ia.

17. When deciding on the enforcement of a decision issuing a provisional measure, are the courts in your jurisdiction permitted to review the decision of the court of a Member State confirmed by the certificate that the court has jurisdiction as to the substance of the matter? What is the prevailing view on this point?

There is no specific view point or position on this matter. The Romanian courts will most probably not proceed to review the decision of a court of another Member State. See also answer for question 16.

18. Has the definition of the 'judgment' and the 'court or tribunal' attracted particular attention in your jurisdiction (e.g., raising issues similar to those in CJEU case C-551/15, *Pula Parking d.o.o. v Sven Klaus Tederahn*)?

[10] See for example, *Curtea de Apel Craiova* (Craiova Court of Appeal), Decision No 1039/05.10.2010.

This has not attracted particular attention in Romania. This is possibly because in Romania only courts can issue judgements and there is no similar situation to the one discussed in the *Pula Parking* case.

CHAPTER II

Personal scope (scope *ratione personae*)

19. The Recast introduces a number of provisions aimed at further improving the procedural position of 'weaker' parties. Thus, it widens the scope of application *ratione personae* so as to enable consumers and employees to rely on the protective provisions of the Regulation against non-EU 'stronger party' defendants (Article 6(1) referring to, *inter alia*, 18(1) and 21(2)). Are there any statistics available illustrating an increased number of suit actions filed by consumers and/or employees in your jurisdiction?

There are no available statistics that would allow an assessment on this matter.

20. As to the scope of application *ratione personae*, has it been dealt with in case law or discussed in the literature whether Article 26 applies regardless of the domicile of the defendant, considering that Article 6 does not specifically refer to Article 26?

Discussions with regard to whether Article 26 Brussels Ia appling regardless of the domicile of the defendant are limited. This aspect has been addressed in literature by a Romania scholar. Zidaru is of the opinion that Article 26 applies regardless of the domicile of the parties, including the situation when the defendant is domiciled in a third country.[11]

21. In a similar vein, what is the prevailing view in your jurisdiction on whether provisions on *lis pendens* contained in Articles 29 and 30 apply regardless of the domicile of the defendant? Is the fact that a court of a Member State has been seised first the only relevant/decisive factor for the court second seised to stay its proceedings or does the obligation to stay persist only if the court first seised has jurisdiction according to the Regulation (with respect to the claim falling within the substantive, *ratione personae* and temporal scope of Regulation's application)?

[11] Gh.-L. Zidaru, *Competenţa în materie civilă potrivit Regulamentului Bruxelles I bis (nr. 1215/2012)*, Editura Hamangiu, 2017, p. 467-468.

According to literature – in line with the CJEU case *Overseas Union Insurance* (C-351/89) – the *lis pendens* provisions apply regardless of the domicile of the defendant.[12]

In a published decision - Decision No. 926/9 April 2019 *Tribunalul Bucureşti* (Bucharest General Court)[13] – the court decided to stay proceedings brought to verify whether the court first seised was the *Tribunal de commerce de Paris* and what was the object of the filed claim. The verification did not seem to involve a verification of the fact the court first seised had actually jurisdiction. This interpretation is in line with views expressed in literature according to which the Regulation does not set additional requirements such as the fact that the court first seised should have jurisdiction according to Brussels Ia in order for the second court to retain the *lis pendens* situation.[14]

Temporal scope

22. Have your courts or other authorities had difficulties with the temporal scope of the Brussels Ia Regulation? E.g., have they found it clear when the abolition of *exequatur* applies and when not?

Some identified problems had to do with which of the certificate forms should be issued – Brussels I or Brussels Ia – or cases in which a Brussel I certificate was provided to the court and the court requested a Brussels Ia format of the certificate. According to available case law, the judgments were issued prior to 10 January 2015,[15] thus, the provisions regarding certification of Brussels I would apply. Nevertheless, it happens that the representative of the claimants request the Romanian court to issue the certificate in accordance with Article 60 Brussels Ia.

Alternative Grounds of Jurisdiction

23. In general, have the provisions containing alternative jurisdictional grounds in Article 7, 8 and 9 triggered frequent discussion on the interpretation and application of these provisions in theory and practice? Which rules have been relied upon most frequently? Which have proved to be particularly problematic?

The application of these three articles does not seem to have triggered frequent discussions as to their interpretation in the Romanian literature and case law. There are no official statistics available to show which of the three articles is most frequently

[12] Ibidem, p. 517.
[13] Available at www.rolii.ro/hotarari/5d2545d0e490098416000089.
[14] Gh.-L. Zidaru, *Competenţa în materie civilă potrivit Regulamentului Bruxelles I bis (nr. 1215/2012)*, Editura Hamangiu, 2017, p. 517
[15] *Tribunalul Bucureşti* (Bucharest General Court), Section V – Civil, Decision No 1552R/06.08.2015; *Tribunalul Timiş* (Timiş General Court), Decision No 1223/A/27.11.2015.

relied upon. However, from available case law there is an indication that Article 7 Brussels Ia is exponentially the most often relied upon in practice from the three indicated articles.

The interpretation and application of Articles 7, 8, and 9 Brussels Ia do not appear to pose particular problems in Romania as resulting from available literature and case law.

24. Which issue(s) proved particularly problematic in the context of Article 7(1): interpretation of the concept 'matters relating to a contract', distinction between the types of contracts, principle of 'autonomous interpretation' of the Regulation, determination of the place of performance? How were the difficulties encountered dealt with?

There seems to be no such difficulties according to the practice of the Romanian courts.

25. Is the place where the goods were delivered or services provided decisive for determining jurisdiction even when the place of payment is agreed upon and a failure to pay the price has solely given rise to the dispute? If so, what is the prevailing view in the literature and case law on how the wording 'unless otherwise agreed' in Article 7(1)(b) is to be understood?

No such situation appears to have been handled by the available case law. This aspect is not specifically or extensively discussed by Romanian scholars.

26. Has Article 7(2) given rise to difficulties in application, if so which particular aspect(s): the wording 'matters relating to tort, delict or quasi-delict', the wording 'place where the harmful event occurred or may occur'/locating the place of damage, cases where the place of wrongful act is distinct from the place where the damage has been sustained, types of claims and actions falling within the scope of this provision, identification of the 'centre of interests' in cases of the infringement of personality rights/privacy, application of the requirement of 'immediate and direct damage' in the context of financial loss, interplay between the rules on jurisdiction contained in other EU legal instruments and in the Regulation especially in the context of infringement of intellectual property rights?

No case law that poses any of these difficulties has been identified.

27. The Recast introduced a new provision on jurisdiction regarding claims for the recovery of cultural objects as defined in Directive 93/7/EEC. Has this triggered discussion in the literature or resulted in court cases?

This has not triggered particular discussions in the literature or resulted in relevant case law that can be referred.

28. Have there been any significant controversies in connection with other rules on jurisdiction under Article 7, 8 and 9, if so which particular rule: regarding claims based on acts giving rise to criminal proceedings, interpretation of 'operations of a branch, agency or other establishment, claims relating to trusts, claims relating to salvage of a cargo or freight, proceedings involving multiple defendants, third-party proceedings, counterclaims, contractual claims related to a right *in rem* on immovable property, limitation of liability from the use or operation of a ship?

There have not been any significant controversies in connection with other rules on jurisdiction contained by Article 7, 8, or 9 Brussels Ia that could be identified based on available case law and literature.

Rules on jurisdiction in disputes involving 'weaker parties'

29. In the newly introduced paragraph 2 in Article 26, the Recast imposes the obligation upon the courts in Member States to inform 'weaker parties' of the right to oppose jurisdiction according to the protective provisions of the Regulation, but does not expressly regulates consequences of a court's failure to do so. What is the prevailing view in your jurisdiction on the point whether the omission of the court qualifies as a ground to oppose the recognition and enforcement of a decision rendered in violation of this obligation under Article 45?

No case law dealing with this aspect was identified. According to literature, a possible ground for opposing recognition and enforcement of such decision could be Article 45(1)(e) in conjunction with Article 45(2) Brussels Ia; however, the application and interpretation of Article 45(2) should be restrictive when it comes to the verification of the competence of a court of another Member State and should be limited to blunt mistakes or oversights.[16]

30. According to the prevailing view in your jurisdiction, do the provisions limiting effectiveness of prorogation clauses in cases involving 'weaker parties' apply to choice-of-court agreements providing for jurisdiction of a court in a country outside the EU?

No view on this issue has been expressed.

[16] See also Gh.-L. Zidaru, *Competența în materie civilă potrivit Regulamentului Bruxelles I bis (nr. 1215/2012)*, Editura Hamangiu, 2017, p. 551-554.

31. According to the prevailing literature in your Member State, do provisions in Sections 3, 4 and 5 provide effective protection to 'weaker parties'?

The provisions contained in Sections 3, 4, and 5 seem to be considered as providing generally effective protection for 'weaker parties'. No extensive criticisms of these provisions have been made by Romanian scholars.

32. In general, have there been difficulties in applying Section 3 of the Regulation on the jurisdiction in matters relating to insurance, if so which aspect(s): definition of 'branch, agency or other establishment' in the identification of the competent court, the identification of 'the place where the harmful event occurred', the definition of 'injured party', the application of the provisions of Articles 15 and 16 relating to choice-of-court agreements?

Based on available case law, none of these indicated difficulties seemed to have been encountered or dealt with by Romanian courts.

33. Have there been difficulties in applying Section 4 of the Regulation on the jurisdiction in matters relating to consumer disputes, if so which aspect(s): requirements for a transaction to be considered as a 'consumer contract' as defined in Article 17, the application of the norms on the choice-of-court agreements?

The application of the provisions of Section 4 appear to have led to some difficulties of interpretation in Romania. At present, there is a request for preliminary ruling from the *Tribunalul Specializat Cluj* (Cluj Specialized General Court) registered with the CJEU (C-500/18)[17] where one of the questions concerns of application of Article 17(1)(c) or alternatively Article 7(2). This clarification is required in order for the way the national judge should proceed in assessing his competence: namely, by interpreting/taking into consideration the substantive law basis invoked by the claimant or based on his status as consumer.

34. Have the courts in your jurisdiction encountered difficulties in the application of Article 18(2), in the case of *perpetuatio fori*, occurring if the consumer moves to another State? If yes, how are these problems dealt with?

There is no case law available on this aspects in order to assess whether the courts encounter difficulties in the application of Article 18(2) Brussel Ia.

35. Have there been difficulties in applying Section 5 of the Regulation on the jurisdiction in matters relating to employment contracts, if so which aspect(s):

[17] CJEU, *Reliantco Investments and Reliantco Investments Limassol Sucursala Bucureşti*, Case C-500/18, Application, OJ C 38/ 22.10.2018, p.13.

the interpretation of the concept of 'matters relating to individual contracts of employment', the interpretation of the concept of 'branch, agency or establishment', 'place where or from where the employee habitually carries out his work', the application of the provision on the choice-of-court agreements?

Available case law related to Section 5 of the Regulation does not indicate that Romanian courts had specific difficulties in interpreting these provisions.

Exclusive jurisdiction

36. Article 24(1) uses the expression rights '*in rem'*, but provides no definition. The same holds true for case-law of the CJEU, even though it has to some extent clarified the concept by holding that it is not sufficient that the action merely concerns a right *in rem* or is connected with such right. Do the courts in your Member State experience difficulties in distinguishing between disputes which have 'as their object' 'rights *in rem'* from those that merely relate to such rights and accordingly do not fall within the exclusive jurisdiction? If so, how are these problems solved? Have there been any problems with applying Article 31(1) in this respect?

According to available case law there does not seem to be such difficulties. Romanian judges seem to be well aware of the difference and are able to apply Article 24(1) Brussels Ia only in relation to rights *in rem* and not to actions in relation to such rights or actions for damages related to such rights (see for example *Tribunalul Arad* (Arad General Court), Decision No 10/06.12.2018, ECLI:RO:TBARD:2018:036.xxxxxx;[18] Curtea de Apel Bucureşti (Bucharest Court of Appeal) Decision No 154/2018, ECLI:RO:CABUC:2018:053.xxxxxx)[19].

No problems in relation to the application or leading to the application of Article 31(1) Brussels Ia have been identified.

37. For the purposes of applying Article 24(2), which rule of private international law applies for determining the seat of the company in your legal system? Do the courts in your Member State experience difficulties in this respect and, if so, how are these problems dealt with?

In determining the seat of a company, Article 2571 of the New Civil Code (NCC) applies. In general, according to paragraph 1 of Article 2571 NCC, a legal entity's (i.e. a company's) seat is that of its statutory seat. In case, the company has more seats in different countries, in order to determine the actual seat of the company, the real seat approach is used by the Romanian courts (Article 2571(2) NCC).

[18] Decision available at www.rolii.ro/hotarari/5c1b08afe49009ac14000029.
[19] Decision available at www.rolii.ro/hotarari/5b1e4348e490091c1d00003b.

No particular problems have been identified with regard to the application of Article 24(2) Brussels Ia. However, the choice made by the Romanian legislator to use the real seat theory has been criticised in literature for not clarifying all the necessary provisions and for the possible reference to two legal systems when it comes to the law applicable to their dispute.[20]

38. In cases concerning the violation of an intellectual property right, the invalidity of the patent may be raised as a defence. In *GAT v Luk* (C-4/03) the CJEU ruled that for the exclusive jurisdiction it should not matter whether the issue is raised by way of an action or as a defence. This rule is now incorporated in the text of Article 24(4). Do the courts in your Member State experience any particular difficulties when applying the provision regarding the validity of the rights covered by Article 24(4)? If so, how are these dealt with?

There is no indication that this provision has led to particular difficulties in the practice of the Romanian courts. In literature, the way the CJEU case law was incorporated in Article 24(4) was criticised for potentially leading to significant delays in counterfeiting actions that have to be handled with urgency, breaching the principle of *perpetuatio fori* and permissibility of applicable provisions regarding the competence of the courts.[21] According to Zidaru, the present provision opens up a possibility for the defendant to abuse this provision to 'torpido' a claim as Article 24(4) can lead to the seised court declaring itself not competent as a result of the defendant putting forward a defence on the merits (e.g. substance of the right under dispute).[22]

39. Given the variety of measures in national law that may be regarded as 'proceedings concerned with the enforcement of judgements', which criteria are used by the courts in your Member State to decide whether a particular procedure falls under the scope of Article 24(5)? Please elaborate and provide examples.

According to available literature and the interpretation of the provisions of the New Code of Civil Procedure (NCPC), the measures that would be regarded as 'proceedings concerned with the enforcement of judgments' are the writ of execution issued by the court on request of the bailiff in order to proceed to the execution of a judicial decision, the enforcement actions to be taken by the bailiff, action contesting execution measures, contesting decision for the distribution of the amounts resulting from execution, requests related to the suspension or delay of execution measures.[23] Further, there is no express criteria set within national legislation or practice that Romanian courts would

[20] V. Terzea, *Noul Cod Civil adnotat cu doctrina si jurisprudenta*, Universul Juridic, 2014.
[21] Gh.-L. Zidaru, *Competența în materie civilă potrivit Regulamentului Bruxelles I bis (nr. 1215/2012)*, Editura Hamangiu, 2017, p. 369-370.
[22] Ibidem.
[23] Ibidem, p. 379-384.

follow in order to determine whether a particular procedures falls within the scope of Article 24(5) Brussels Ia.

40. Does the removal of a conservatory third party attachment (in case of seizure) fall within the scope of 'enforcement' in the sense of Article 24 chapeau and fifth paragraph Brussels Ia leading to the exclusive jurisdiction of the court where the removal has to be enforced, or can jurisdiction of the removal be based on Article 35 leading to jurisdiction of the court that has granted leave to lay a conservatory third-party attachment (seisure)? In other words, is Article 24 interpreted extensively or narrowly in you Member State?

Based on available literature, there seems that Article 24(5) is to be interpreted narrowly in Romania and the conservatory measures will be based on the provisions of Article 35 Brussels Ia.

Prorogation of jurisdiction and tacit prorogation

41. Application of Article 25 requires a minimum degree of internationality. Is there any particular case-law and/or literature, in your Member State in which this minimum degree of internationality has been discussed and/or a certain threshold has been set? If yes, what are the considerations and/or arguments that have been made?

According to Zidaru, for the application of Article 25 Brussels Ia the internationality of the claim has to go beyond the choice of the parties for a foreign court; thus, there has to be an additional element to that of the choice parties made such as their domicile in different Member States, the place of execution of the contract, the place where the damage was caused, the existence of an international transport etc.[24] Furthermore, there is some indication that courts follow the assessment mentioned in literature and require an additional element of internationality besides the choice of a foreign court as competent to hear any potential disputes arising between the contracting parties (see for example *Curtea de Apel Bucureşti* (Bucharest Court of Appeal), Decision No 154/25.05.2018, ECLI: RO:CABUC:2018:053.xxxxxx). No additional specific threshold to assess the degree of internationality appears to have been set by practice based on available case law.

42. The requirement that at least one of the parties to the choice-of-court agreement must be domiciled in a member state, as stated in Article 23 Brussels I, has been deleted in Article 25 Brussels Ia. Has this amendment resulted in an increase of

[24] See Gh.-L. Zidaru, *Competenţa în materie civilă potrivit Regulamentului Bruxelles I bis (nr. 1215/2012)*, Editura Hamangiu, 2017, p. 392-393.

a number of litigations in which jurisdiction has been based on choice- of- court agreement falling under the Regulation?

There is no specific information or statistics available on the number of cases that were filed previously with the Romanian courts on the basis of Article 23 Brussels I and now on the basis of Article 25 Brussels Ia in order to be able to assess whether the number of litigation has registered an increase or not.

43. Are there particular examples in which the formal requirements for validity of choice-of-court agreements (Article 25(1)(a-c)) caused difficulties in application for the judiciary or debate in literature? Which requirement has appeared most problematic in practice? When applying the respective requirements of an agreement 'in writing or evidenced in writing', 'practice which the parties have established between themselves' and 'international trade usages', which facts do the courts and/or literature deem decisive?

The national formal requirements for the validity of choice-of-court agreements are stricter than the ones provided by Article 25(1) Brussel Ia. Such clauses are considered to be not customary clauses (Article 1203 New Civil Code) and require an additional form attesting the counter-party actually expressed its consent/agreement with regard to a choice-of-court agreement (e.g. a signature of the counter-party is placed by such clause, the clause is written in bold to attract the attention of the potential concerned party, there is a specific notice or information with regard to this clause at the end of the contract close to the place where the counter-party is to put his signature). However, the national provisions do not apply for situations covered by Article 25 Brussels Ia.[25]

Based on available case law, there is no indication that the interpretation of the formal requirements set by Article 25(1) Brussels Ia has created particular difficulties. Also, the literature does not indicate that there are such difficulties in practice for the Romanian courts.

44. Is there case-law in your Member State in which the formal requirement(s) of Article 25 (1)(a-c) have been fulfilled, but the choice of court agreement was held invalid from the point of view of substantive validity due to a lack of consent? If the answer is in the affirmative, what were the considerations made by the court?

No such case could be identified in order to provide additional information.

[25] See also Gh.-L. Zidaru, *Competența în materie civilă potrivit Regulamentului Bruxelles I bis (nr. 1215/2012)*, Editura Hamangiu, 2017, p. 403; E.A. Oprea, 'Facilitatea convențiilor attributive de jurisdicție în condițiile generale de afaceri – repere jurisprudențiale', *Revista Română de Drept Privat*, (2016)6.

45. Are there cases in which the courts in your Member State experienced problems with the term 'null and void' with regard to the substantive validity of a choice-of-court agreement?

No such case could be identified.

46. Article 25(1) Brussels Ia has been revised so as to explicitly state that the substantial validity of a choice-of-court agreement is determined by the national law of the designated court(s). Recital 20 clarifies that the designated court is to apply its own law including its private international law rules. Has the reference to private international law in this context led to discussion in literature or difficulties in application for the judiciary in your Member State?

In principle, reference to the national provisions, including conflicts-of-law rules, is seen as a positive aspect as the judges are familiar with these provisions and this should not cause difficulties. This aspect is not extensively discussed in literature or case law.

47. Is there particular case law or literature in your Member State in which the test of substantive validity of non-exclusive choice-of-court agreements was discussed? If yes, how is dealt with the substantial law of the different designated Member States?

No such case could be identified in order to provide additional information on how this was dealt with by the court.

48. Has the express inclusion of the doctrine of severability of choice-of-court agreements, as mentioned in Article 25(5) Brussels Ia merely confirmed a principle that had already been firmly established and accepted in theory and practice within your Member State?

Severability of choice-of-courts agreements is considered and accepted by Romanian courts and practice.

49. Do the courts in your Member State experience difficulties in applying the rules as to defining 'entering an appearance' for the purposes of applying Article 26 Brussels Ia?

This does not seem to be the case in practice.

Examination jurisdiction and admissibility; *Lis pendens* related actions

50. Have courts in your Member State experienced any particular problems when interpreting the 'same cause of action' within the meaning of Article 29(1) (e.g.

a claim for damages for breach of contract and a claim for a declaration that there has been no breach ('mirror image')? Please elaborate and provide examples from your own jurisdiction (if any).

Based on available case law, there does not seem to be any particular problems with the application of Article 29 Brussels Ia.

51. Do you know whether the courts of the other Member State are typically contacted immediately once sufficient evidence has been gathered which suggests or confirms that courts in the other Member State may have been seised of the 'same cause of action'? Is there a standardised internal procedural guideline which is followed by the courts of your Member State? And are there any practical (for example, linguistic, cultural or organisational) obstacles or considerations which may hinder contact between the courts of your Member State and the other Member State?

There is no indication that a standardised set of guidelines is used for contacting the courts of other Member States that could have been seised with the 'same cause of action'. It is difficult to assess how fast the courts are contacted as no specific statistics are available on this matter. It is usually the party invoking such situation or procedural exception who will have to prove it and provide evidence to the Romanian court that the court in another Member State has been seised first.

There is no indication that practical obstacles would hinder contact with other courts, but this does not seem to be a usual practice for Romanian judges.

52. When should a court in your Member State be considered to be seised for the purposes of Article 32 Brussels Ia? Is this when the document instituting the proceedings or 'equivalent document' is lodged with the court (a) or when such document is received by the authority responsible for service (b)? Does the moment of filing a suit with the court determine the moment as from which a proceeding is deemed pending or the proceeding is considered to be actually pending at a later point after certain administrative/organisational steps have been taken (see e.g., circumstance in C-173/16 *M.H. v. M.H.* relating to this issue under Regulation Brussels IIbis)?

A Romanian court is deemed to have been seised at the moment the claim is registered with the court (Article 192(1) in conjunction with Article 199 NCPC). For the purpose of Article 32 Brussels Ia, this would fall under the provisions of paragraph (1)(a) of the Regulation. From the moment of the registration of the claim with the court, the claim is considered to be pending.

53. Do subsequent amendments of claims in any way affect the determination of the date of seising in your Member State? Is any differentiation made in that

respect between cases where a new claim concerns facts known at the date of the original proceedings and amendments based on facts which have only emerged after the date of the original proceedings?

Subsequent amendments of the claim will not lead to a modification of what is the seising date of the court. No differentiation is made as to the facts being known previously or not, but on the moment until which such amendments can be made. For example, on the basis of Article 204(1) NCPC, the claimant can modify his claim and propose new evidence until the first term he is summon to court on sanction of decay. After this moment, the claimant can modify his claim only upon express agreement between the parties (Article 204(3) NCPC).

54. Do courts in your Member State tend to decline jurisdiction if the court seised previously had jurisdiction over the actions in question 'and its law permits the consolidation thereof' (see Article 30(2))?

Romanian courts observe the *lis pendens* rules when the court first seised has jurisdiction. National law allows such actions and the exception can be raised not only by the parties but also by the court *ex officio* during any stage of the proceedings dealing with the merits of the claim according to Article 138(2) NCPC.[26]

55. Has the application of Article 31(2) proved to be counterproductive and resulting in delaying the proceedings by the obligation of the court seised to stay the proceedings until a designated court has decided on the validity of a choice- of- court agreement, even when a prorogation clause has never been entered into or is obviously invalid?

There is no indication that the application of Article 31(2) Brussels Ia has been counterproductive based on the available case law.

56. Has the combined application of Articles 33 and 34 in your view contributed to greater procedural efficiency and accordingly diminished the risk of delays in resolving disputes as well as the risk of irreconcilable judgments between a third state and your Member State?

These two new provisions have been welcomed by Romanian scholars and practitioners because of the uniformity they bring in the way a court of a Member State has to handle issues of *lis pendens* and related claims. However, it is impossible to quantify the level of efficiency and diminishing the risk of delays these new provisions bring for such

[26] The exception cannot be raised during a second appeal dealing only with issues of interpretation and application of the law. See also, Andreia Constanda, 'Art. 138. Excepția litispendenței', in Gabriel Boroi et al. (ed.), *Noul Cod de procedură civilă. Comentariu pe articole*, Volumul I, Editura Hamangiu, 2016, p. 404-406.

disputes involving third countries and Romania because quantitative data and statistics on this matter are not available.

57. Apart from concerns regarding procedural efficiency, are connections between the facts of the case and the parties in relation to the third state typically also taken into account by the courts in your Member State in determining their jurisdiction under Articles 33 and 34, bearing in mind the aims as expounded by Recital 24 of the Regulation?

In determining their jurisdiction, the Romanian courts consider also other elements such as the ones provided by Recital 24 and not only elements of procedural efficiency and connections between facts and parties in relation to the third state.

58. Does the application of both provisions in your view amount to a sufficiently 'flexible mechanism' (see further Recital 23) to address the issue of parallel proceedings and *lis pendens* in relation to third states?

The mechanism is necessary and sufficiently flexible giving the national courts a margin of appreciation that is more extensive than the provisions involving similar situations with courts of other Member state.

In view of the EU competence, when it comes to situations involving third countries, this more extensive level of appreciation is welcomed also in consideration of the possibility for the court that stayed proceedings to decide to continue proceedings at a subsequent moment in time in accordance with the situations established by Articles 33(2) and 34(2).

Provisional measures, protective measures

59. Do the courts in your Member State experience difficulties defining which 'provisional, including protective, measures' are covered by Article 35?

According to available case law, Romanian courts do not seem to encounter difficulties with interpreting the notion of 'provision, including protective, measures' as covered by Article 35 Brussels Ia. The only provisional measure provided by national law that is not covered by the definition of Article 2(a) Brussels Ia is the precautionary seizure or attachment (*sechestru asigurător*) because the defendant is not summoned to appear prior to the seizure.[27] In practice, courts might at time be willing to issue such precautionary measure based on Article 35 Brussels Ia.[28]

[27] See also Gh.-L. Zidaru, *Competența în materie civilă potrivit Regulamentului Bruxelles I bis (nr. 1215/2012)*, Editura Hamangiu, 2017, p. 457.
[28] See for example, *Curtea de Apel Constanța* (Constanța Court of Appeal), Decision No 382/29.06.2016, ECLI:RO:CACTA:2016:015.xxxxxx

60. In the *Van Uden Maritime v Deco-Line and Others* case (C-391/95) the CJEU introduced a requirement of territorial connection between the subject matter of the measures sought and the territorial jurisdiction of the Member State's court to issue them. How is the 'real connecting link' condition in *Van Uden* interpreted in the case-law and doctrine in your Member State?

The court will assess whether the measure sought has a territorial connection with Romanian. If Romanian courts are not competent as to the merit of the case, the measure sought has to have a link with the territory for which the seized court retains jurisdiction.

Relationship with other instruments

61. Has the Hague Convention on Choice of Court Agreements to your knowledge ever been relied upon in declining jurisdiction in your Member State and allocating jurisdiction to third states party to that Convention? Please provide examples from case-law with a short summary.

To my knowledge there has been no decision until now related to this convention or upon its provisions in which a Romanian court declined its jurisdiction in favour of another state party to this convention. No decision on these aspects could be identified in available databases.

CHAPTER III

Recognition and Enforcement

62. How frequently is the optional procedure, established in Article 36(2), to apply for a decision that there are no grounds of refusal of recognition employed in your jurisdiction?

There are no statistics available on the frequency of the application of Article 36(2) Brussels Ia in Romania.

63. Abandoning *exequatur,* Section 2 of Chapter III grants direct access to national enforcement agents (in a wide sense, including particularly courts and *huissiers*) or enforcement agencies. Have such agents or members of such agencies in your jurisdiction received specific training or instruction on how to deal with

enforcement requests based on judgments rendered in other Member States? If so, who undertook the effort and who seized the initiative?

It is very likely no compulsory training has been organised for all enforcement officers and judges involved in the enforcement process in Romania. However, some of them are very likely to have received specific trainings or participated in workshops dedicated to Brussels Ia and discussions on the abolition of the exequatur. Such events are usually part of continuing training events organised by the Romanian professional organisations the judges and bailiffs belong to, the National Magistracy Institute, the European Judicial Training Network, and/or universities and legal editing houses.

64. Has there been a concentration of local jurisdiction (venue) at the national or regional level in your jurisdiction institutionalising specialised enforcement agents for the enforcement of judgments rendered in other Member States?

There is no concentration of jurisdiction specialised in the enforcement of judgments rendered in other Member States. However, the *tribunalurile* (general courts) are usually the ones dealing with such issues in Romania.

65. Have there been other specific legislative or administrative measures in your jurisdiction possibly facilitating the direct access of creditors or applicants from other Member States to the enforcement agents?

There have been no specific administrative measures put in place for facilitating the direct access of creditors or applications from other Member States to enforcement agents in Romania. The only legislative action undertaken was via a Government Emergency Ordinance (OUG No 119/2007 as amendment) to indicate the courts that are competent to deal with matters related to contesting and/or refusing recognition and enforcement requests in Romania and the courts that are competent to issue the certificate (Article I[4] OUG No 119/2007).

66. Has the transgression to direct enforcement enhanced the number of attempts to enforce judgments rendered in other Member States? Are there any respective statistics available in your jurisdiction? If so, may you please relay them?

No statistical information is available in order to be able to compare between the number of requests received by Romanian authorities under Brussels I and Brussels Ia. Furthermore, due to the amendments of the New Code of Civil Procedure the courts were not involved in any request for enforcement between 2014-2016, unless the enforcement actions were contested. Enforcement officers are independent professionals and they have no duty to communicate such statistics to their professional body.

67. Section 2 of Chapter III has created a specific interface between the Brussels Ia Regulation and national rules on enforcement. Has this generated particular problems in your jurisdiction?

There appears to be some divergent practices of courts as regard to the type of courts competent to issue the writ of execution in order for bailiffs to proceed to the enforcement of decisions certified in accordance with Brussels Ia. The problem seem to be generated by the interaction between national procedural rules (Article 1103 and Article 666 NCPC), O.U.G. No 119/2007 (Article I^4 and I^2) and the provisions of Brussels Ia with regard to the court competent to issue the writ of execution. In some decisions, the courts consider this to be the competence of the *tribunal* (general court) in some this is the *judecătoria* (district court).[29] The situation is generated by the fact Article I^4 of the O.U.G. No 119/2007 does not contain a dedicated provision as to the court being competent to handle such requests filed by bailiffs prior to the execution, but this is the case with the provisions concerning the previous text of the Regulation Brussels I (Article I^2 O.U.G. No 119/2007).

68. Has Article 41(2) in particular attracted specific attention in your jurisdiction?

No decision making the application of Article 41(2) Brussels Ia could be identified. Furthermore, the article did not attract specific attention from scholars either.

69. Article 46 introduced the so called 'reverse procedure'. Are there any statistics available in your jurisdiction on the absolute frequency and the relative rate of such proceedings, the latter in comparison to the number of attempts to enforce judgments rendered in other Member States? If so, may you please relay the said statistics?

No statistics are available related to this matter.

70. Public policy and denial of a fair trial to the defaulting defendant in the state of origin (now Article 45(1)(a) and (b) respectively) have a certain tradition of being invoked rather regularly as grounds for refusal of recognition or enforcement. Has this changed in your jurisdiction following the advent of the 'reverse procedure' (Article 46)? Has the rate of success invoking either of them changed?

No statistics are available in order to be able to assess this.

[29] See for example *Curtea de apel Bucureşti* (Bucharest Court of Appeal), Decision No 61/18.06.2018 ECLI:RO:CABUC:2018:045.xxxxxx) and *Tribunalul Timiş* (Timiş Genera Court), Decision No 615/21.06.2016), ECLI:RO:TBTIM:2016:044.xxxxxx.

71. Has the extension of now Article 45(e)(i) to employment matters practically altered the frequency of, or the approach to, enforcing judgments in employment matters in your jurisdiction?

No statistics are available in order to be able to assess this.

72. Article 52 strictly and unequivocally inhibits *révision au fond*. Do courts or enforcement agents in your jurisdiction comply with this in practice?

Romanian courts comply with the provisions of Article 52 Brussels Ia. Available case law indicates that Romanian judges reject any claim seeking to contest enforcement that would lead to a review of the substance of a judgment issued by a court in another Member State.

73. Article 54 introduced a rule for adaptation of judgments containing a measure or an order which is not known in the law of the Member State addressed. How frequently or regularly does such adaptation occur in practice in your jurisdiction? In the event that the judgment gets adapted, how frequently is such adaptation challenged by either party?

No statistics are available in order to be able to assess this.

74. Translation of the original judgment is optional, not mandatory by virtue of Article 37(2) or Article 54(3) respectively. How often require courts or enforcement agents in your jurisdiction the party invoking the judgment or seeking its enforcement to provide a translation of the judgment?

No statistics are available in order to be able to assess this. From available case law it does not seem to be often the case that a Romanian court will ask also a translation of the original judgment. At times such translation appears to have been deposited by the interested party of his own motion and not upon the court's request.[30]

CHAPTER VII

Relationship with Other Instruments

75. Which impact has Annex (1)(q) of Directive 93/13/EEC (Unfair Terms in Consumer Contracts) generated in your jurisdiction?

[30] See for example *Curtea de apel Bucureşti* (Bucharest Court of Appeal), Decision No 2128 A/14.12.2016, ECLI:RO:CABUC:2016:xxxxxxxxxxx.

Romanian courts rely on this provision in assessing unfair terms in consumer contracts restricting the consumer in his possibilities of initiating legal actions or the courts before which he could bring his claim (e.g. court at the headquarters of the credit institution compared to the court closer to the branch that issued the loan or mortgage). Often this provision has been invoked in relation to loan and mortgage contracts concluded by consumers with credit institutions. Available decision are mainly from 2014-2016. The courts proceed to consider on a case by case basis whether the distance between the place of residence of the consumer and that of the court established in the contract is such as to make it particularly difficult for the consumer to reach the court or to travel to court.

76. Can you identify examples for an application of Article 70 in your jurisdiction?

No case law making application of Article 70 Brussels Ia could be identified.

77. Has the precedence of Art. 351 TFEU to Article 71 Brussels Ia, as established by the CJEU in *TNT v AXA* (C-533/08) and *Nipponkoa Insurance Co. (Europe) Ltd v Inter-Zuid Transport BV* (C-452/12) prompted any practical consequences in your jurisdiction?

The precedence in relation to Article 71 Brussel I (Regulation No 44/2001) was discussed in a court decision in relation to the CMR (*Judecătoria Sectorului 1 Bucureşti* (Bucharest District 1 Court) Decision No 3453/04.06.2018, ECLI:RO:JDS1B:2018:009.xxxxxx).[31] However, the *TNT v AXA* (C-533/08) and *Nipponkoa Insurance Co. (Europe) Ltd v Inter-Zuid Transport BV* (C-452/12) do not seem to have prompted particular consequences in the practice of the Romanian courts or extensive discussion in the literature.

78. Which Treaties and international Conventions have triggered Article 71 in your jurisdiction?

Based on the available case law the Convention on the contract for the international carriage of goods by road (CMR) has been applied in relation to Article 71 in Romania.

79. Have there been problems in your Member State with the delineation of the application of Article 25 Brussel Ia and The Hague Convention on Choice-of-Court agreements?

There is no information or case law available that indicated that there has been so far a problem of delineation between the application of Article 25 Brussels Ia and the Hague Convention on Choice-of-Courts agreements.

[31] Available at www.rolii.ro/hotarari/5b344b73e49009f808000057.

80. Have Articles 71(a) – 71(d) been already applied in your jurisdiction?

There is no indication that this has already been the case. No case law dealing with the application of Articles 71(a) – 71(d) could be identified.